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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,493	09/01/2006	Michael Wilford	114063-225	1877
63462 7590 06/18/2008 ROCKEY, DEPKE & LYONS, LLC SEARS TOWER SUITE 5450 CHICAGO, IL 60606-6306			EXAMINER JACYNIA J CASIMER	
			ART UNIT 3754	PAPER NUMBER
			MAIL DATE 06/18/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/591,493

**Applicant(s)**

WILFORD ET AL.

**Examiner**

J. Casimer Jacyna

**Art Unit**

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 September 2006.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-49 is/are pending in the application.  
4a) Of the above claim(s) 16-27 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-15 and 28-49 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☒ Claim(s) 1-49 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 01 September 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

1. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

- 1) The embodiment as shown in figures 1-7.
- 2) The embodiment as shown in figures 17 and 18.

It is noted that the specification discloses a third embodiment as shown in figures 19-21, however, there are no claims that are either generic to or readable on the embodiment shown figures 19-21.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

2. The claims are deemed to correspond to the species listed above in the following manner:

Embodiment 1: 5-15 and 28-49.

Embodiment 2: 16-27.

The following claim(s) are generic: 1-4.

3. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: Because all of the generic claims can be rejected over the cited prior art to Cudaback and Miller et al.

4. During a telephone conversation with Mr. on 6/13/2008 a provisional election was made with traverse to prosecute the invention of group I, claims 1-15, 28-49. Affirmation of this election must be made by applicant in replying to this Office action. Claims 16-27 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

6. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "90" has been used to designate both an air outlet in figures 2 and 4 and liquid outlet in figure 20. The drawings are also objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Character 90 as shown in figures 2 and 4; spout 68 from page 9, line 4; 150, 152 and 154 on page 8, lines 16-17.

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7. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

8. The abstract of the disclosure is objected to because it is over 150 words. Correction is required. See MPEP § 608.01(b).

9. The disclosure is objected to because of the following informalities: The separate embodiment referred to on page 6, line 2, is in figures 17 and 18. The third conduit and the second air inlet as called for in claims 7 and 28 are not identified in the figures or in the Detailed Description of the Invention wherein there is some ambiguity as to which element of the device is being claimed. Appropriate correction is required.

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1-18, 20, 21 and 28-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Cudaback 4,708,171. Cudaback discloses an air vented closure including a docking member 25, a first conduit 60, a second conduit 53 that is parallel to 60, a member 35 with a first end 56 that serves as the liquid outlet for 60 and the container 12, a second end air inlet below 50, wherein member 35 reciprocates and rotates via guides 40, 41 as claimed. In regard to claim 7, 50 defines a third conduit with an opening 51 that serves as the air inlet into the vessel 12 wherein portions of the wall and body of 35 have been removed to form the openings and the conduit as claimed

13. Claims 32-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cudaback 4,708,171. Cudaback discloses an air vented closure substantially as claimed but does not disclose the grooves 40 to be on the mounting sleeve with the pegs 41 located on the valve body nor the exact geometric shape of the inlets and outlets. However, one of ordinary skill in the art would have known that the location of the pegs and the grooves were interchangeable and that the device would function equally well if the grooves were on the valve and the pegs were on the sleeve. One of ordinary skill in the art would also have known that the various geometric shapes of the

inlets and outlets are well known and would have considered any particular geometric shape to be an obvious variation of the standard circular shape.

14. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Miller et al. 6,533,935. Miller discloses an air vented closure including a docking member 96 or 574, a first conduit 98, 118, a second conduit 100, 116 that is parallel to 98, 118, a member 554 with a first end liquid outlet 580, a second end air inlet 562, wherein member 554 reciprocates via elastomeric pushbutton 588 as claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Casimer Jacyna whose telephone number is 571-272-4889. The examiner can normally be reached on Mon. thru Fri. 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Casimer Jacyna/  
Primary Examiner, Art Unit 3754